

**STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE COMMISSIONER OF COMMERCE**

In the Matter of the Notary Public  
Commission of Mary L. Pruitt

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

The above matter came on for Prehearing Conference before Administrative Law Judge Richard C. Luis on August 2, 2007 at the Office of Administrative Hearings in Minneapolis.

Christopher M. Kaisershot, Assistant Attorney General, 1200 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2130 appeared on behalf of the Minnesota Department of Commerce ("Department"). There was no appearance by or on behalf of the Respondent, Mary L. Pruitt. The hearing record closed on August 2, 2007.

**STATEMENT OF ISSUE**

Whether disciplinary action should be taken against Respondent Mary L. Pruitt, and whether further action should be recommended by the Commissioner to the Governor, for dishonest and unfaithful discharge of her duties as a Notary Public in violation of Minn. Stat. §§ 45.027, subd. 7, 359.085, subd. 7 and 359.12; and for failing to notify the Secretary of State of her change of address within 30 days in violation of Minn. Stat. §§ 45.027, subd. 7, 359.071, and 359.12?

Based on all the proceedings herein, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. On June 28, 2007, a Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause and Statement of Charges was mailed to Mary L. Pruitt at her last known address – 701 12th Street North, Apartment 9, Virginia MN 55792. The Notice scheduled a Prehearing Conference for August 2, 2007.

2. The Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause and Statement of Charges contains the following language, on page 4:

1. Respondent's failure to appear that the prehearing conference, settlement conference, or the hearing, or failure to

comply with any order of the Administrative Law Judge, may result in a finding that Respondent is in default, that the Department's allegations contained in the Statement of Charges may be accepted as true, and that Respondent may be subject to discipline by the Commissioner, including suspension, censure, or the imposition of civil penalties. In addition, upon a recommendation by the Commissioner, the Governor may remove Respondent from the office of notary public without further notice or hearing...."

3. The Respondent did not appear at the August 2, 2007, Prehearing Conference. She did not contact the Department, the Office of the Attorney General or the Administrative Law Judge to request a continuance. No Notice of Appearance was filed by the Respondent.

4. At an earlier stage in this proceeding, on December 11, 2006, the Department sent Respondent an information request that required a response to the complaint filed with the Department by the Respondent's former employer. The Department's information request was returned as "Undeliverable as Addressed, Forwarding Order Expired."<sup>1</sup>

5. The allegations set forth in the Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause and Statement of Charges are deemed proved and are incorporated into these Findings by reference.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge, the Commissioner of Commerce and the Governor of Minnesota have jurisdiction herein pursuant to Minn. Stat. §§ 14.50, 45.027, subds. 6 and 7(b), and 359.12, and Minn. Const., art. V, § 3.

2. The Respondent was given timely and proper notice of the Prehearing Conference in this matter, and the Department has complied with all procedural requirements of law and rule.

3. Under Minn. R. 1400.6000, the Respondent is in default as a result of her failure to appear at the scheduled Prehearing Conference.

4. Under Minn. R. 1400.6000, when a party defaults, the allegations and issues as set out in a Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show cause and Statement of Charges may be taken as true and deemed proved. The Administrative Law Judge therefore takes those allegations and issues as true, and they are deemed proved.

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<sup>1</sup> Statement of Charges, Allegation 5.

5. Based on the facts as set out in the Notice of and Order for Hearing, Order for Prehearing Conference and Statement of Charges, the Respondent has violated Minn. Stat. §§ 45.027, subd. 7, 359.071, 359.085, subd. 7 and 359.12. As a result, she is subject to discipline by the Minnesota Commissioner of Commerce and the Governor of Minnesota.

6. An Order by the Commissioner of Commerce and/or the Governor of Minnesota imposing disciplinary action against the Respondent is in the public interest within the meaning of Minn. Stat. § 45.027, subd. 7(a)(1).

Based on the Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS RECOMMENDED that appropriate disciplinary action be taken against Mary L. Pruitt, personally, and against the Notary Public Commission of Mary L. Pruitt.

Dated this 23rd day of August, 2007

/s/ Richard C. Luis

RICHARD C. LUIS

Administrative Law Judge

Reported: Default

### **NOTICE**

This report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Kevin Murphy, Deputy Commissioner, Minnesota Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101 to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, including any Recommendation for further discipline to the Governor of Minnesota, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the

Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

### **MEMORANDUM**

This matter was opened initially on May 7, 2007 when the Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause and Statement of Charges (Notice) was mailed to the Respondent at the same street address, but to a different apartment number (109, not 9), than the Notice sent on June 28, 2007. Subsequent to the issuance of the ALJ's Default Report on June 5, 2007, it was ascertained that the initial Notice went to the wrong apartment number. That mistake was remedied by mailing the Notice to the correct apartment on June 28, the Respondent defaulted again, and the ALJ makes the same Recommendation he did on June 5, 2007.

**R. C. L.**